

spirit. The company considered it would have been disrespectful to question the faith of the State. Of the validity of the subscription made by the treasurer, and of the obligation of the State to abide by it, not even a doubt was ever entertained. The treasurer appeared to have been authorised to make the subscription, for which the consideration had been previously given, when the president and directors of a third company, existing under the law of the State, should certify to him that certain acts had been performed by them.

The Rail Road company had no control over the conduct either of the treasurer or of the Maryland Canal company: the acts and proceedings of both were voluntary on their part, and could not be regulated or controlled by any authority in the Rail Road company. That company, from any thing that appears in their records, and as I have been informed, had no agency or participation whatever, in the organization or in the subscriptions subsequently made to the stock of the Maryland Canal company. The treasurer being thus authorised to act for the State, in the given case, and to perform an act for which the State had received the consideration, was constituted the agent of the State, and not of the Rail Road company; and the evidence upon which he was directed to perform the act, was also prescribed by the State, from a view, it may be presumed, of its own safety and policy, and upon its own responsibility.

If this evidence were furnished, the authority of the treasurer to perform the duty confided to him, became complete. If he had any doubt, it was presumed to be his duty to take counsel of the law-officer of the State. This he is understood to have done, and to have acted under the advice of that officer. If, in the exercise of the discretion and authority vested in him by the State, the treasurer committed an error, that would properly be a matter between the State, as the principal, and the treasurer, as the agent; it could not effect a third party without notice, and innocent of the error, or release the State from its obligation. As far as I am informed, there was not, at any time, the remotest suspicion that any reason existed for doubting the perfect validity of the subscription by the treasurer, or of the proceedings upon which his act was dependent.

Seeing the subscription actually made, and reposing entire confidence in an officer of the reputation which the Treasurer of the Western Shore of Maryland enjoys, I believe that the board of directors had full reliance, that he had honestly and judiciously performed his duty. I, myself, certainly acted upon this confidence; and in deciding to connect myself with the Rail Road company, in the prosecution of a work carried on, in a great measure, under the auspices of the State, I looked to the aid of the State—believing that the policy of the State, and left confident that rights, of so much magnitude as those involved in the treasurer's subscription, could not possibly be disturbed. I